

1978

## c 14 The Corporations Tax Amendment Act, 1978

Ontario

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## CHAPTER 14

**An Act to amend  
The Corporations Tax Act, 1972**

*Assented to May 8th, 1978*

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Subclause iv of clause *d* of subsection 2 of section 1 of *The Corporations Tax Act, 1972*, being chapter 143, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 1, is amended by striking out "section 138" in the third line and inserting in lieu thereof "sections 138 and 248". s. 1 (2) (d) (iv),  
amended
- (2) Subsection 6 of the said section 1 is amended by striking out "sections" in the first line and inserting in lieu thereof "provisions". s. 1 (6),  
amended
- 2.—(1) Clause *c* of subsection 2 of section 2 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 2, is repealed and the following substituted therefor: s. 2 (2) (c),  
re-enacted
  - (c) disposed of taxable Canadian property, within the meaning given to that expression by subsection 1 of section 248 of the *Income Tax Act* (Canada) if the reference in that definition to section 2 of that Act were a reference to this section, that was property situated in Ontario as prescribed by regulation; or R.S.C. 1952,  
c. 148

. . . . .

- (2) Clause *c* of subsection 3 of the said section 2, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 2, is repealed and the following substituted therefor: s. 2 (3) (c),  
re-enacted
  - (c) disposed of taxable Canadian property, within the meaning given to that expression by subsection 1 of section 248 of the *Income Tax Act* (Canada) if the

reference in that definition to section 2 of that Act were a reference to this section, that was property situated in Ontario as prescribed by regulation; or

s. 12(2),  
re-enacted

3. Subsection 2 of section 12 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 6, is repealed and the following substituted therefor:

Interpre-  
tation

(2) In the application of the said section 3 for the purposes of this Act, the reference in paragraph c thereof to "sub-division e" shall be deemed to be a reference to Subdivision D of Division B of Part II of this Act, and the reference in the said section to "this Part" shall be deemed to be a reference to Part II of this Act.

Corpora-  
tion that  
becomes  
subject to  
this Act  
R.S.C. 1952,  
c. 148

(3) Subject to subsection 4 of section 14, for the purpose of computing the income and taxable income of a corporation for a taxation year any amount deducted or deductible by the corporation under a provision of the *Income Tax Act* (Canada) in computing its income for a previous taxation year in respect of which the corporation was not subject to the tax imposed by Part II of this Act is deemed, unless otherwise provided in the said Part II, to have been deducted or deductible, as the case may be, under the corresponding provision of this Act in computing its income or taxable income, as the case may be, for that previous taxation year.

s. 13,  
amended

4. Section 13 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 7, is amended by adding thereto the following subsection:

Interpre-  
tation

(2) In the application of the said section 4 for the purposes of this Act, the references therein to "this Part" shall be deemed to be references to Part II of this Act.

s. 14(4)(a),  
amended

5. —(1) Clause *a* of subsection 4 of section 14 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 8, is amended by striking out "subsections 7.1 and 10" in the first line and inserting in lieu thereof "subsection 10".

s. 14(4)(b),  
re-enacted

- (2) Clause *b* of subsection 4 of the said section 14 is repealed and the following substituted therefor:

Application  
Of  
R.S.C. 1952,  
c. 148,  
s. 13(7.1)

(b) the reference in subsection 7.1 of the said section 13 to "section 65" shall be deemed to be a reference to the said section 65 and to section 19 of this Act.

6. Subclause i of clause c of subsection 4 of section 15 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 8, is repealed. s. 15 (4) (c) (i), repealed
7. Subsection 2 of section 18 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 8, is repealed and the following substituted therefor: s. 18 (2), re-enacted

(2) Subsection 1 does not apply to allow a deduction in computing the income of a corporation for a taxation year if the corporation, at the end of the year or at any time in the immediately following year, Application of subs. 1

(a) was exempt from tax under any provision of this Part; or

(b) was not resident in Canada and ceased to have a permanent establishment in Canada.

- 8.—(1) Clause b of subsection 1 of section 20 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 8, is repealed and the following substituted therefor: s. 20 (1) (b), re-enacted

(b) of that aggregate, an amount equal to its income for the taxation year if no deduction were allowed under this subsection or section 19, minus the deductions allowed for the taxation year by sections 112 and 113 of the *Income Tax Act* (Canada) as made applicable by section 29 of this Act. R.S.C. 1952, c. 148

- (2) Clause b of subsection 2 of the said section 20 is repealed and the following substituted therefor: s. 20 (2) (b), re-enacted

(b) of that aggregate, the greater of,

(i) such amount as the corporation may claim, not exceeding 20 per cent of the aggregate determined under clause a, and

(ii) the aggregate of,

(A) such part of its income for the taxation year as may reasonably be regarded as attributable to the production of petroleum or natural gas from wells in Canada or to the production of minerals from mines in Canada,

(B) its income for the taxation year from royalties in respect of an oil or gas



well in Canada or a mine in Canada,  
and

- (C) the aggregate of amounts each of which is an amount, in respect of a Canadian resource property or a property referred to in subclause ii of clause *a* of subsection 3 of section 16 or clause *c* of subsection 3 of section 16 that has been disposed of by it, equal to the amount, if any, by which,

1. the amount included in computing its income for the taxation year by virtue of subsection 3 of section 16 in respect of the disposition of the property,

exceeds,

2. the amount deducted under section 18 in respect of the property in computing its income for the taxation year,

if no deduction were allowed for the taxation year under this subsection, subsection 3 or section 19.

s. 20 (14) (b)  
(iii),  
re-enacted

- (3) Subclause iii of clause *b* of subsection 14 of the said section 20 is repealed and the following substituted therefor:

- (iii) notwithstanding paragraph *m* of subsection 1 of section 18 of the *Income Tax Act* (Canada), as that section applies to this Act by virtue of section 14 of this Act, the cost to the corporation of a Canadian resource property, but for greater certainty not including any payment made to any of the persons referred to in any of the subparagraphs i to iii of the said paragraph *m* for the preservation of a person's rights in respect of a Canadian resource property or a property that would have been a Canadian resource property if it had been acquired by the corporation after 1971, and not including a payment to which the said paragraph *m* applied by virtue of subparagraph v thereof.

R.S.C. 1952.  
c. 148

9. Section 27 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 8, is amended by adding thereto the following subsection: s. 27,  
amended

(2a) For the purposes of this Act, paragraph *d* of subsection 1 of section 96 of the *Income Tax Act* (Canada) shall apply as though the paragraph read as follows: Exception

- (d) each income or loss of the partnership for a taxation year were computed as if no deduction were permitted by subsection 1 of section 19, section 20 or the provisions of *The Corporations Tax Application Rules*, 1972 relating to exploration and development expenses.

10. Subsection 1 of section 46 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 8, is amended by inserting after "138" in the fifth line "138.1,". s. 46 (1),  
amended

11. Section 48 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 58, section 8, is repealed and the following substituted therefor: s. 48,  
re-enacted

48. Section 138.1 and subsection 2 of section 142 of the *Income Tax Act* (Canada) are, in so far as they apply to corporations, applicable for the purposes of this Act. Amounts to  
be included  
in com-  
puting  
policy-  
holder's  
income

### *Communal Organizations*

48a. Section 143 of the *Income Tax Act* (Canada) is, in so far as it applies to corporations, applicable for the purposes of this Act. Application  
of  
R.S.C. 1952,  
c. 148, s. 143

12. Section 126 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 42, section 11, 1977, chapter 16, section 3 and 1977, chapter 58, sections 9 and 26, is further amended by adding thereto the following subsection: s. 126,  
amended

(3) Notwithstanding subsection 1, the taxable paid-up capital of a corporation registered under *The Loan and Trust Corporations Act* for a taxation year is its taxable paid-up capital as it stood at the close of the taxation year, and includes, Taxable  
paid-up  
capital of  
loan and  
trust cor-  
porations  
R.S.O. 1970,  
c. 254

(a) its paid-up capital stock;

(b) its earned, capital and any other surplus; and

- (c) all its reserves, whether created from income or otherwise, except any reserve, the creation of which is allowed as a charge against income under the provisions of Part II.

s. 127 (2a),  
re-enacted

13. Subsection 2a of section 127 of the said Act, as enacted by the Statutes of Ontario, 1973, chapter 42, section 12, is repealed and the following substituted therefor:

Exception

- (2a) Subsections 1 and 2 do not apply to any corporation to which subsection 2 or 3 of section 126 applies.

s. 131 (2),  
re-enacted

14. Subsection 2 of section 131 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 16, section 4 and amended by 1977, chapter 58, section 26, is repealed and the following substituted therefor:

Rate of  
capital tax  
on banks and  
loan and  
trust  
corporations  
R.S.O. 1970,  
c. 254

- (2) The tax payable under this Part by a bank or a corporation registered under *The Loan and Trust Corporations Act* for a taxation year calculated upon its taxable paid-up capital, in this subsection referred to as the "amount taxable", is three-fifths of 1 per cent of the amount taxable.

s. 132 (2),  
re-enacted

15. Subsection 2 of section 132 of the said Act, as re-enacted by the Statutes of Ontario, 1977, chapter 16, section 4 and amended by 1977, chapter 58, section 26, is repealed and the following substituted therefor:

Idem

- (2) There may be deducted from the tax otherwise payable under this Part by a bank or a corporation registered under *The Loan and Trust Corporations Act* for a taxation year an amount equal to three-fifths of 1 per cent of that portion of its taxable paid-up capital that is deemed to be used by the bank or the corporation registered under *The Loan and Trust Corporations Act* in the taxation year in each jurisdiction outside Ontario determined under rules prescribed by the regulations.

s. 143 (1),  
re-enacted

- 16.—(1) Subsection 1 of section 143 of the said Act, as amended by the Statutes of Ontario, 1976, chapter 32, section 18 and 1977, chapter 58, section 26, is repealed and the following substituted therefor:

Insurance  
corporations

- (1) Every insurance corporation shall pay a tax of,

- (a) 2 per cent calculated on the gross premiums payable, under contracts of accident insurance, life insurance and sickness insurance; and

- (b) 3 per cent calculated on the gross premiums payable, under any other contract of insurance,



to the corporation or its agent or agents during the taxation year in respect of business transacted in Ontario (other than premiums in respect of reinsurance ceded to the corporation by other insurance corporations and considerations for annuities), after deducting from such premiums the amount of,

(c) the cash value of dividends credited to policyholders; and

(d) the premiums returned.

- (2) Subsections 1a and 1b of the said section 143, as enacted by the Statutes of Ontario, 1976, chapter 32, section 18, are repealed and the following substituted therefor:

s. 143 (1a),  
re-enacted;  
s. 143 (1b),  
repealed

(1a) For the purposes of subsection 1, "accident insurance", "life insurance" and "sickness insurance" have the respective meanings given to those expressions by section 1 of *The Insurance Act*.

Interpre-  
tation

R.S.O. 1970.  
c. 224

17. Subsection 4 of section 146 of the said Act, as amended by the Statutes of Ontario, 1977, chapter 58, section 26, is repealed and the following substituted therefor:

s. 146 (4),  
re-enacted

(4) Where a person, acting or purporting to act on behalf of a corporation, knowingly, or under circumstances amounting to gross negligence in the carrying out of any duty or obligation imposed by or under this Act, has made or has participated in, assented to or acquiesced in the making of, an incorrect statement or omission (in this subsection referred to as a "false statement") in a return, certificate, statement or answer (in this subsection referred to as a "return") filed or made in respect of a taxation year as required by or under this Act or the regulations, the corporation is liable to a penalty of 25 per cent of the amount, if any, by which,

Statements  
or omissions  
in return

- (a) the tax for the year that would be payable by it under this Act if its taxable income or other subject of tax for the year were computed by adding to the taxable income or other subject of tax reported by it in its return for the year that portion of the understatement of income or the understatement of any other subject of tax, for the year, that is reasonably attributable to the false statement;

exceeds,



- (b) the tax for the year that would have been payable by it under this Act had the tax payable for the year been assessed on the basis of the information provided in its return for the year.

Interpre-  
tation

(5) For the purposes of subsection 4, the taxable income reported by a corporation in its return for a taxation year shall be deemed not to be less than nil and the "understatement of income" for a year shall be determined in accordance with the rules provided in subsection 2.1 of section 163 of the *Income Tax Act* (Canada).

R.S.C. 1952,  
c. 148

s. 148 (3) (a),  
re-enacted

18.—(1) Clause *a* of subsection 3 of section 148 of the said Act, as re-enacted by the Statutes of Ontario, 1975, chapter 17, section 64, is repealed and the following substituted therefor:

(a) on or before,

- (i) the last day of each month of the taxation year in respect of which the tax is payable, an instalment equal to one-twelfth of the tax payable as estimated by it at the rates for the taxation year on,

(A) its estimated taxable income and other subject of tax for the taxation year,  
or

(B) its taxable income and other subject of tax for the immediately preceding taxation year; or

- (ii) the last day of each of the first two months of the taxation year in respect of which the tax is payable an instalment equal to one-twelfth of the tax payable as estimated by it, at the rates for the taxation year, on its taxable income and other subject of tax for the second taxation year preceding the taxation year, and on or before the last day of each of the following ten months of the taxation year an instalment equal to one-tenth of the amount remaining after deducting the amount computed pursuant to this subclause in respect of the first two months of the taxation year from the tax payable as estimated by it at the rates for the taxation year on its taxable income and

other subject of tax for the immediately preceding taxation year; and

- (2) Subsection 5 of the said section 148, as enacted by the Statutes of Ontario, 1976, chapter 32, section 19 and amended by 1977, chapter 58, sections 16 and 26, is repealed and the following substituted therefor: s. 148 (5). re-enacted

(5) Notwithstanding clause *a* of subsection 3, the amount payable by a mutual fund corporation to the Treasurer of Ontario on or before the last day of any month of the taxation year in respect of which the tax is payable, shall be deemed to be the amount, if any, by which, Mutual fund corporations

- (a) the amount so payable otherwise determined under that subsection,

exceeds,

- (b) one-twelfth of the corporation's capital gains refund for the year, as determined under section 41.

- 19.—**(1) Subsection 1 of section 149 of the said Act, as amended by the Statutes of Ontario, 1977, chapter 58, section 26, is repealed and the following substituted therefor: s. 149 (1). re-enacted

(1) Where the amount paid on account of the tax payable by a corporation for a taxation year is less than the amount of tax payable for the taxation year, the corporation liable to pay the tax shall pay interest on the difference between, Interest on unpaid tax

- (a) the amount of tax payable for the taxation year; and

- (b) the amount paid on account of the tax payable for the taxation year,

from the day on which the balance of the tax payable is required to be paid pursuant to clause *b* of subsection 3 of section 148 to the day of payment of the tax, at such rate as is prescribed by the regulations.

(1a) For the purposes of subsection 1, the "amount paid on account of the tax payable" is the amount paid by the corporation on account of the tax payable for the taxation year minus any amounts refunded to the corporation or any amounts applied to other liability of the corporation pursuant to section 152. Interpretation

s. 149(5),  
re-enacted

- (2) Subsection 5 of the said section 149, as amended by the Statutes of Ontario, 1977, chapter 58, section 26, is repealed and the following substituted therefor:

Interest on  
unpaid tax

(5) For the purpose of calculating interest under subsection 2, where a corporation is required to pay a part or instalment of tax for a taxation year pursuant to subsection 3 of section 148, the corporation shall be deemed to have been liable to pay the part or instalment determined under,

(a) sub-subclause A of subclause i of clause a of subsection 3 of section 148; or

(b) sub-subclause B of subclause i of clause a of subsection 3 of section 148; or

(c) subclause ii of clause a of subsection 3 of section 148,

whichever method gives the least amount required to be paid.

s. 150(1a, 1b),  
re-enacted

20. Subsections 1a and 1b of section 150 of the said Act, as enacted by the Statutes of Ontario, 1977, chapter 58, section 18, are repealed and the following substituted therefor:

Determina-  
tion of  
losses

(1a) Where the Minister ascertains the amount of a corporation's non-capital loss, net capital loss or restricted farm loss for a taxation year and that amount is different from the amount reported by the corporation in its return of income for that year, the Minister shall, at the request of the corporation, determine, with all due despatch, the amount of the corporation's non-capital loss, net capital loss or restricted farm loss, as the case may be, and shall send a notice of determination to the corporation that delivered the return.

Provisions  
applicable  
R.S.C. 1952,  
c. 148

(1b) The provisions of paragraph 1 of subsection 1 of section 56 and paragraph o of section 60 of the *Income Tax Act* (Canada), as those paragraphs apply by virtue of sections 16 and 17, respectively, of this Act, and the provisions of this Part, as they relate to an assessment or reassessment and to assessing tax and reassessing tax, are applicable, *mutatis mutandis*, to a determination or redetermination and to determining and redetermining amounts under this Part, except that subsections 1 and 2 are not applicable to determinations made under subsection 1a and, for greater certainty, an original determination of a corporation's non-capital loss, net capital loss or restricted farm loss for a taxation year may be made by the Minister only at the request of the corporation.



(1c) For greater certainty, where the Minister makes a determination of the amount of a corporation's non-capital loss, net capital loss or restricted farm loss for a taxation year, as the case may be, subject to the corporation's rights of objection and appeal in respect of the determination and subject to any redetermination by the Minister, the determination is binding on both the Minister and the corporation for the purposes of calculating the taxable income of the corporation in any other year. Determination binding

- 21.** Subsection 3 of section 152 of the said Act is repealed and the following substituted therefor: s. 152 (3), re-enacted

(3) Where an amount in respect of an overpayment is refunded or applied under this section on other liability, interest at such rate as is prescribed by the regulations shall be paid or applied thereon for the period commencing with the later of, Interest on overpayments

(a) the day on which the overpayment arose; and

(b) the day on or before which the balance of the tax payable for the taxation year is required to be paid pursuant to clause *b* of subsection 3 of section 148,

and ending with the day of refunding or application aforesaid, unless the amount of the interest so calculated is less than \$1, in which event no interest shall be paid or applied under this subsection.

- 22.** Subsection 1 of section 153 of the said Act, as amended by the Statutes of Ontario, 1977, chapter 58, section 20, is repealed and the following substituted therefor: s. 153 (1), re-enacted

(1) Where instalments of tax as required by subsection 3 of section 148 are overpaid at any time prior to, Credit interest on overpaid instalments

(a) the day on or before which the balance of the tax payable for the taxation year is required to be paid pursuant to clause *b* of subsection 3 of section 148; or

(b) the day on which a refund was made upon assessment where such assessment is made before the day referred to in clause *a*,

whichever is earlier, interest at such rate as is prescribed for the purpose of subsection 3 of section 152 shall be allowed on the amount of the overpayment.

Commence-  
ment and  
Application

**23.** (1) Sections 1 and 2, subsection 2 of section 12 of the said Act, as enacted by section 3 of this Act, and sections 4 and 9 shall be deemed to have come into force on the 8th day of December, 1977.

Idem

(2) Subsection 1 of section 19, and sections 20, 21 and 22 come into force on the day this Act receives Royal Assent.

Idem

(3) Sections 5 and 6 shall be deemed to have come into force on the 8th day of March, 1978, and apply to property acquired and expenses incurred after the 7th day of March, 1978.

Idem

(4) Subsection 3 of section 12 of the said Act, as enacted by section 3 of this Act, section 7 of this Act, and section 48a of the said Act, as enacted by section 11 of this Act, shall be deemed to have come into force on the 1st day of January, 1977 and apply to corporations in respect of all taxation years ending after 1976.

Idem

(5) Subsections 1 and 2 of section 8 shall be deemed to have come into force on the 7th day of May, 1974, and apply to corporations in respect of all taxation years ending after the 6th day of May, 1974.

Idem

(6) Subsection 3 of section 8 shall be deemed to have come into force on the 7th day of May, 1974, and applies to amounts paid or payable after the 6th day of May, 1974 in respect of the period after that date.

Idem

(7) Section 10 of this Act, and section 48 of the said Act, as re-enacted by section 11 of this Act, shall be deemed to have come into force on the 1st day of January, 1978 and apply to corporations in respect of all taxation years ending after 1977.

Idem

(8) Sections 12, 13, 14 and 15 shall be deemed to have come into force on the 8th day of March, 1978 and apply to corporations in respect of all taxation years ending after the 7th day of March, 1978, except that with respect to the taxation year ending after the 7th day of March, 1978, and that includes that day, the following rules apply:

- (a) determine the amount of tax payable under Part III of the said Act as that Part stood on the 7th day of March, 1978 on the assumption that that Part as it so stood was applicable to that taxation year;
- (b) determine the proportion of the amount determined under clause a that the number of days of that

taxation year prior to the 8th day of March, 1978 bears to the total number of days of that taxation year;

- (c) determine the amount of tax payable under Part III of the said Act, as amended by sections 12, 13, 14 and 15 of this Act, on the assumption that that Part as so amended was applicable for that taxation year;
- (d) determine the proportion of the amount determined under clause *c* that the number of days of that taxation year that follow the 7th day of March, 1978 bears to the total number of days of that taxation year;
- (e) determine the aggregate of the amounts determined under clauses *b* and *d* in respect of the corporation,

and the aggregate determined under clause *e* is the amount payable by the corporation under Part III of the said Act, as amended by this Act, for its taxation year that ends after the 7th day of March, 1978, and that includes that day.

- (9) Section 16 shall be deemed to have come into force on <sup>Idem</sup> the 8th day of March, 1978 and applies to corporations in respect of all taxation years ending after the 7th day of March, 1978, except that with respect to the taxation year ending after the 7th day of March and that includes that day, the following rules apply:

- (a) determine the tax payable under section 143 of the said Act as that section stood on the 7th day of March, 1978 on the assumption that that section as it so stood was applicable to that taxation year;
- (b) determine the proportion of the amount determined under clause *a* that the number of days of that taxation year prior to the 8th day of March, 1978 bears to the total number of days of that taxation year;
- (c) determine the amount of tax payable under section 143 of the said Act, as amended by section 16 of this Act, on the assumption that that section as so amended was applicable for that taxation year;
- (d) determine the proportion of the amount determined under clause *c* that the number of days of



that taxation year that follow the 7th day of March, 1978 bears to the total number of days of that taxation year;

(c) determine the aggregate of the amounts determined under clauses *b* and *d* in respect of the corporation,

and the aggregate determined under clause *e* is the amount payable by the corporation under section 143 of the said Act, as amended by this Act, for its taxation year that ends after the 7th day of March, 1978, and that includes that day.

Idem

(10) Section 17 shall be deemed to have come into force on the 1st day of April, 1977.

Idem

(11) Section 18 and subsection 2 of section 19 come into force on the 1st day of July, 1978 and apply to corporations in respect of all taxation years commencing on or after that date.

Short title

**24.** The short title of this Act is *The Corporations Tax Amendment Act, 1978*.